United Nations CEDAW/C/2001/II/5

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
8 June 2001

Original: English

Committee on the Elimination of Discrimination against Women
Twenty-fifth session
2-20 July 2001
Item 5 of the provisional agenda*
Implementation of article 21 of the Convention on the Elimination of All Forms of Discrimination against Women

Committee's approach to article 4, paragraph 1 of the Convention

Report by the Secretariat

Contents

		Paragraphs	Page
I.	Introduction	1–6	2
II.	Article 4 (1) of the Convention on the Elimination of All Forms of Discrimination against Women	7–8	3
III.	The approach of the Committee on the Elimination of Discrimination against Women to article 4 (1)	9–47	3
	A. Reports to world conferences	10–11	3
	B. General recommendations	12–14	3
	C. Concluding comments	15–47	4
Annex			
	Documents containing concluding comments of the Committee		15

* CEDAW/C/2001/II/1.

01-41165 (E) 250601

I. Introduction

1. At its twenty-third session, held from 12 to 30 June 2000, the Committee on the Elimination of Discrimination against Women decided to prepare a general recommendation on article 4 of the Convention on temporary special measures aimed at accelerating de facto equality between men and women.[1] The Committee began discussion of the general recommendation at its twenty-fourth session, held from 15 January to 2 February 2001, and requested the secretariat to provide at its twenty-fifth session an analysis of the Committee's approach to article 4, paragraph 1, in its consideration of States parties' reports.

2. The Committee is preparing the general recommendation on article 4 (1) against the background of recommendations of the Beijing Platform for Action[2] for positive action to bring about equality for women in certain contexts, and the results of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century". The outcome document of the special session (resolution S-23/3, annex, paras. 22, 66 (a) and 81 (b)) drew attention to the fact that an increasing number of countries had applied affirmative and positive action policies, including quota systems or voluntary agreements and measurable goals and targets, to increase the participation of women in power and decision-making. It also urged Governments to set and encourage the use of explicit short- and long-term time-bound targets or measurable goals, including, where appropriate, quotas, to promote progress towards gender balance in all areas, and particularly in decision-making.

3. Other parts of the United Nations human rights system have also been concerned with temporary special measures or related issues. In its general recommendation XIV on article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee on the Elimination of Racial Discrimination observed that differentiation of treatment would not constitute discrimination if the criteria for such differentiation, judged against the objectives and purpose of the Convention, were legitimate or fell within the scope of article 1, paragraph 4, which allowed for special measures.[3] The Committee also recommended special measures in its general recommendation XXVII on discrimination against Roma.[4]

4. Relevant statements have also been made by the Human Rights Committee. In its general comment 18 on non-discrimination, the Committee pointed out that the principle of equality sometimes required States parties to take affirmative action in order to diminish or eliminate conditions that cause or help to perpetuate discrimination, and that such action may involve granting for a time to the part of the population concerned certain preferential treatment on specific matters as compared with the rest of the population. Where such action was needed to correct discrimination, it would not amount to discrimination, but would be legitimate differentiation under the International Covenant on Civil and Political Rights.[5] In its general comment 28 on the equality of rights between men and women, the Human Rights Committee indicated that States parties must adopt not only measures of protection, but also positive measures in all areas so as to achieve the effective and equal empowerment of women. In particular, States were required to ensure that the law guarantees to women rights guaranteed by article 25 of the Covenant on equal terms with men and to take effective and positive measures to promote and ensure women's participation in the conduct of public affairs and in public office, including through appropriate affirmative action.[6]

5. Similarly, the Committee on Economic, Social and Cultural Rights has drawn attention to States parties' obligations to take positive action to reduce structural disadvantages in its general comment 5 on people with disabilities,[7] while in its general comment 13 on the right to education it indicated that the adoption of temporary special measures intended to bring about de facto equality for men and women and disadvantaged groups was not a violation of the right to non-discrimination, as long as such measures did not lead to the maintenance of unequal or separate standards for different groups and provided they were not continued after their objectives had been achieved.[8]

6. In 1998 the Subcommission on the Promotion and Protection of Human Rights appointed a Special Rapporteur on the concept and practice of affirmative action, who presented a preliminary report in the context of the Subcommission's comprehensive examination of thematic issues relating to racial discrimination during its fifty-second session, in 2000.[9]

The International Labour Organization has also devoted significant attention to these issues.[10]

II. Article 4 (1) of the Convention on the Elimination of All Forms of Discrimination against Women

7. Article 4, paragraph 1, states:

> "Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved."

8. Precursors to article 4 (1) include article 5 (2) of the International Labour Organization's Discrimination (Employment and Occupation) Convention (111), which provides that special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognized to require special protection or assistance, shall not be deemed to be discriminatory. Article 1 (4) of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination similarly defines special measures taken for the sole purpose of securing the advancement of certain racial or ethnic groups or individuals as not constituting racial discrimination, provided that such measures do not lead to the maintenance of separate rights for different racial groups and do not continue after the objectives for which they were taken have been achieved. Article 2 (2) of that Convention also provides that States parties should, "when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms".

III. The approach of the Committee on the Elimination of Discrimination against Women to article 4 (1)

9. The Committee has addressed article 4 (1) in its reports to world conferences in its general recommendations and in its consideration of reports of States parties under article 18 of the Convention.

A. Reports to world conferences

10. In its report on the achievements of and the obstacles encountered by States parties in the implementation of the Convention to the 1985 World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held in Nairobi (A/CONF.116/13, para. 53), the Committee on the Elimination of Discrimination against Women indicated that Sweden and Canada were among the States parties reporting on article 4 (1). Canada had cited affirmative action programmes designed to relieve hardship or economic disadvantage or to attempt to achieve equal opportunity in society that helped employers to identify and eliminate discrimination in employment, remedy the effects of past discrimination and ensure appropriate representation of target groups, including women, indigenous people and people with disabilities, throughout the employer's organization.

11. The Committee also identified article 4 (1) as one of the unique features of the Convention in its report on the progress achieved in the implementation of the Convention to the Fourth World Conference on Women, held in Beijing in 1995 (A/CONF.177/7, para. 45 (b)), and indicated that in its elaboration of the requirements of the article, the Committee had included specific training for girls and women, for example, literacy campaigns and vocational training, and the establishment of goals and timetables, as well as quotas in the areas of employment, education and political participation.

B. General recommendations

12. One of the earliest general recommendations adopted by the Committee was general recommendation 5 on temporary special measures

adopted at the Committee's seventh session, in 1988.[11] General recommendation 5 noted that while significant progress had been achieved in regard to repealing or modifying discriminatory laws, there was still a need for action to be taken to implement fully the Convention by introducing measures to promote de facto equality between women and men. It recalled article 4 (1) of the Convention and recommended that States parties make more use of temporary special measures such as positive action, preferential treatment or quota systems to advance women's integration into education, the economy, politics and employment.

13. In its general recommendation 8 on the implementation of article 8, adopted at the same session, the Committee recommended that States parties take measures in accordance with that article to ensure full implementation of article 8, and that women have opportunities to represent their Governments at the international level and to participate in the work of international organizations on equal terms with men and without discrimination.

14. The use of temporary special measures was also advocated by the Committee in its general recommendation 23 on women and public life, adopted at its sixteenth session, in 1997.[12] The Committee noted that where countries had developed effective temporary strategies in an attempt to achieve equality of participation by women in public life, a wide range of measures had been implemented, including recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns aimed at equal participation, setting numerical goals and quotas and targeting women for appointment to public positions such as the judiciary or other professional groups that play an essential part in the everyday life of all societies. The Committee indicated that the formal removal of barriers and the introduction of temporary special measures to encourage the equal participation of men and women in the public life of their societies were essential prerequisites to true equality in political life. States parties were also obliged to ensure that temporary special measures were designed to support the principle of equality and therefore complied with constitutional principles that guaranteed equality to all citizens, and to identify and implement such measures to ensure the equal representation of women in all fields covered by articles 7 and 8 of the Convention.

C. Concluding comments

15. In its review of reports of States parties the Committee has consistently stressed the value of temporary special measures aimed at accelerating de facto equality between women and men as envisaged by article 4 (1), both in general terms and with regard to particular contexts. Most concluding comments of the Committee on States parties' reports, especially those adopted since its sixteenth session (see annex), make reference to the content of article 4 (1) or the article itself, although the terminology used has varied widely and has included reference to positive measures and affirmative action as well as to temporary special measures. In its more recent concluding comments, the Committee has usually specifically cited article 4 (1).

16. The following section analyses the approach of the Committee to article 4 (1) in its concluding comments. Some concluding comments advocate temporary special measures in very general terms, welcoming or recommending legislation providing for such measures or suggesting such measures, as well as recommending the use of temporary special measures to eliminate stereotypical attitudes and behaviour patterns with respect to the roles of women and men or to address indirect and structural discrimination.

17. Temporary special measures have often been recommended by the Committee in specific contexts, in particular to bring about women's equal participation with men in political and public life. Temporary special measures are also suggested as a means of bringing about equality between women and men in the field of education and with regard to employment and economic life. In a few cases, temporary special measures have been suggested to address disadvantages faced by particular groups of women.

18. A number of concluding comments emphasize the importance of evaluating the impact of temporary special measures and suggest programmes or policies to support them. Several concluding comments identify a lack of understanding or a misinterpretation of article 4 (1) and recommend measures to clarify the meaning of the provision. A limited number of concluding comments recognize the fact that temporary special measures might be regarded as controversial.

1. General advocacy for temporary special measures

19. General advocacy for the introduction of temporary special measures was made by the Committee in its concluding comments on Madagascar, adopted at its thirteenth session, where it indicated that the Government should use article 4 of the Convention to accelerate the advancement of women in Madagascar. At its eighteenth session it recommended the adoption of temporary special measures of affirmative action by the Government of Zimbabwe to promote the status of women in all spheres of society. At its twenty-first session, the Committee expressed concern that there had been no efforts to employ temporary special measures to improve the situation of women in various areas in Georgia and recommended that the Government consider introducing a broad range of measures within the framework of article 4 (1) to accelerate the improvement of the position of women in all areas and particularly in regard to political representation. During its twenty-second session the Committee welcomed the German Government's extensive use of temporary special measures for the realization of de facto equality for women; and at its twenty-fourth session it urged the Government of Mongolia to introduce temporary special measures in conformity with the Convention, as well as public awareness and human rights education programmes that would create a supportive environment for women's participation in public life.

20. A number of concluding comments have welcomed legislation allowing for temporary special measures. For example, the concluding comments on Argentina, adopted at the Committee's seventeenth session, note with satisfaction that the Constitution recognized the competence of the National Congress to adopt affirmative action laws so as to guarantee equality of opportunity and treatment; while those on Australia adopted at the same session draw attention to a range of legislative measures, including the Affirmative Action (Equal Employment Opportunity for Women) Act of 1986, and the register of women maintained by government agencies. Similarly, the concluding comments relating to Lithuania adopted at the twenty-third session commends the fact that the Law on Equal Opportunities allows for positive discrimination in accordance with article 4 (1).

21. Several concluding comments encourage the inclusion of temporary special measures, as well as the definition of discrimination contained in article 1 of the Convention, in the Constitution or other legislation. The concluding comments on the United Kingdom of Great Britain and Northern Ireland, adopted at the twenty-first session, recommended that the Government take further measures to implement article 4 (1), including legislative measures, and to set goals for women's equal representation in all areas; and those relating to Uzbekistan, adopted at the twenty-fourth session, recommended the drafting of a comprehensive law on equal opportunities for men and women, including provisions for temporary special measures in accordance with article 4 (1).

22. A few concluding comments advocate the use of temporary special measures to eliminate stereotypical attitudes and behaviour patterns with respect to the roles of women and men in society. For example, in its concluding comment relating to the Republic of Moldova, adopted at its twenty-third session, the Committee recommended that the Government take urgent measures to overcome stereotyped and patriarchal social attitudes, in particular by using article 4 (1) to increase the number of women in decision-making at all levels and in all areas, including through the establishment of targets and timetables to monitor progress. Similar recommendations are made in the concluding comments on Romania, adopted at the same session. Some concluding comments also recommend temporary special measures to address hidden, indirect or structural discrimination. The concluding comments relating to Slovenia adopted at the sixteenth session suggest the formulation of temporary special measures in the fields of politics, education and employment and in the implementation of de jure and de facto equality for women, and recommended that the judiciary be made aware of the meaning of indirect and structural discrimination, de facto equality and the concept of temporary special measures.

2. Participation in political and public life and decision-making

23. Since its thirteenth session, in 1994, the Committee has developed more detailed and specific recommendations in its concluding comments in regard to women's equal participation in political and public life and decision-making, including in the judiciary, frequently calling upon States parties to implement or maintain temporary special measures, with numerical

goals and quantitative targets and timetables to accelerate de facto equality with regard to political participation and decision-making positions. The Committee has also suggested the introduction of specific measures of affirmative action, such as quotas with respect to all government and governmentally appointed bodies, particularly those dealing with business and economic matters, to ensure the equal participation of women.

24. In its concluding comments adopted in regard to Barbados, adopted at its thirteenth session, the Committee expressed concern at the serious lack of female participation in politics and in the representation of Barbados at international level and in other decision-making positions, and encouraged Barbados to consider enhanced campaigns to involve women in those positions by applying article 4 of the Convention. At its fourteenth session, in regard to Australia, it encouraged the Government to adopt new temporary special measures to increase women's participation in politics at the state and federal levels; in regard to Bolivia, it recommended that, for the effective participation of women, the Government establish quotas for women's high-level representation in the public administration and call the attention of political parties to that effect; in regard to Colombia, it considered that speedier progress should be made in the participation by women in decision-making, for example through government support for women candidates in elections; in regard to the Russian Federation, the Committee suggested that special temporary measures be taken to promote the participation of women at the decision-making level in different fields, including at the highest levels; and in regard to Tunisia, it encouraged the Government to further increase its efforts for women's political participation at all levels.

25. During its fifteenth session, the Committee welcomed the Belgian Government's efforts to adopt affirmative action measures, including legislative measures, to promote women's employment in senior positions in the public sector and to nominate women as candidates for governmental advisory bodies. It also strongly recommended that urgent special temporary measures be adopted under article 4 by the Government of Cyprus, with the aim of substantially increasing the presence of women in all areas of public and political life as well as actively promoting their positions in the senior management of the civil service and the diplomatic service, and recommended that there be an increase in the number of women in decision-making positions in public administration. The Committee called for programmes to be developed to encourage women to take decision-making positions in Ethiopia, and noted the initiatives and efforts of both non-governmental organizations and the Government in Paraguay to broaden the political participation of women and the proposal to establish a law on quotas and to oblige all political parties to establish a minimum number of women in their electoral lists. The Committee also appreciated Paraguay's efforts to implement the quota system in decision-making bodies and recommended that that system be adopted and implemented in all possible areas and at all possible levels, including by public authorities, political parties, unions and other organizations of civil society, in accordance with the provisions of article 7 of the Convention.

26. During its sixteenth session the Committee noted with concern the challenges currently facing efforts in Denmark to implement temporary special measures to hasten gender equality, such as the removal of quotas by political parties; recommended that temporary special measures be adopted by the Government of the Philippines to increase the participation of women in top-level decision-making positions in the public sector; and called for the next report of Saint Vincent and the Grenadines to indicate special measures that had been taken by the Government and the political parties to close the gap between de jure and de facto equality, particularly in the area of political decision-making. The Committee applauded the temporary special efforts of the Slovenian Office for Women's Policies to raise public awareness and to introduce measures to increase women's participation in Parliament, and recommended that the Government make new efforts directed at the political education of women and men and of political parties in order to ensure more effective temporary measures that would increase the representation of women at all levels of political life. The Committee also requested the Government of Turkey to initiate temporary special measures with numerical goals and timetables in accordance with article 4 (1), in particular in the political sphere and the public sector.

27. At its seventeenth session the Committee recommended that temporary special measures be adopted by Armenia to remedy the severe decrease in

the political representation of women since independence and to increase their participation in all areas of public life; that the Government of Antigua and Barbuda encourage greater participation of women in politics by introducing temporary special measures; and applauded the increase in the number of women parliamentarians in Argentina as a result of the effective application of the Quota Act. The Committee noted the positive impact of the presence of 30 seats reserved for women in Parliament and local bodies in Bangladesh, as well as in the public sector, and recommended the continuance of affirmative action measures such as quota seats for women in Parliament, in local bodies and in the civil service, which should be accompanied by capability-building and skills training to enable women to participate actively in electoral politics as well as in the civil service. At the same session, the Committee urged the Namibian Government to introduce measures and programmes, including affirmative action, to increase women's participation at all levels of the judiciary, and strongly urged it to encourage political parties to encourage the participation of women and to take all appropriate measures in that regard. Where Italy was concerned, the Committee noted with deep concern that the presence of women in politics and decision-making positions remained very limited and that political participation had fallen in recent years. Emphasizing the importance of the presence of women in such positions, the Committee was concerned that the Italian Government's opinion that the adoption of numerical goals and quotas was unnecessary had contributed to that situation, and recommended that the Government continue to implement and strengthen the measures it was currently taking to empower women and to mainstream gender issues. It encouraged specific affirmative actions targeted to numerical goals and quotas, in particular in areas such as political and decision-making positions in public life, where women's de facto equality had not been improving at the desired pace. Similarly, in the case of Luxembourg, the Committee expressed concern that article 4 had not been used to ensure the equitable participation of women in the conduct of public affairs and, generally, in the economic, social and cultural life of the country, and suggested the introduction of temporary special measures to strengthen the participation of women in the political, economic and social life of the country. In the light of recent achievements in some other countries of the European Union in the implementation of article 7 of the Convention, the Committee recommended that the Government of Luxembourg examine strategies to ensure the better representation of women in decision-making posts in all fields.

28. At its eighteenth session the Committee expressed concern that article 4 (1) had not been used in Azerbaijan to eliminate the inequality between women and men, particularly in the context of the integration of women into politics and employment and with regard to assistance for displaced and refugee women, and recommended that appropriate institutions consider the utility and necessity of affirmative action, in particular to encourage greater participation of women in decision-making. It encouraged the Government of Croatia to implement specific affirmative actions targeted to numerical goals and quotas, in particular in those areas such as political and decision-making positions in public life where women's de facto equality has not been improving at the desired pace. The Committee expressed concern about women's inadequate and declining representation in decision-making positions in the political and economic spheres in the Czech Republic and at the Government's apparent lack of attention to this phenomenon, which was reflected in the absence of any special temporary measures. the Committee urged the Czech Government to review its perspective on temporary special measures in the area of women's political and economic participation in leadership positions, and recommended the institution of numerical goals and targets, as well as a plan of action with timetables to boost women's participation in those areas. In regard to Bulgaria, the Committee expressed concern that there were no special laws aimed at bringing about women's de facto as well as de jure equality and that the Government had not demonstrated a commitment to introducing temporary special measures in the near future. The Committee strongly recommended that temporary special measures be adopted in all the necessary areas, particularly in the areas of employment and political decision-making, to accelerate the de facto situation of equality for women in Bulgaria. The Committee suggested that the Government give further consideration to the nature and role of affirmative action, perhaps calling upon Committee members to provide further information and assistance to the Government in that respect. The Committee noted with appreciation the recent adoption by the Congress of the Mexican Union of an addendum to the Federal Code of Electoral Institutions and

Procedures which stated that national political parties should consider providing in their statutes that no more than 70 per cent of the candidates for deputy or senator should be of the same gender, and expressed satisfaction at the efforts being made to implement affirmative action programmes in a number of areas, including the Federal Code of Electoral Institutions and Procedures, which demonstrated a clear understanding of paragraph 1 of article 4 of the Convention. Nonetheless, the Committee suggested that Mexico evaluate areas, such as the private sector, that were not covered by affirmative action and, in its next report, submit a consolidated evaluation of all affirmative-action initiatives.

29. At its nineteenth session the Committee recommended that the Government of Slovakia reconsider its position on temporary special measures and take note of the information and practice developed internationally in structural discrimination. Noting that such discrimination could be eliminated through temporary special measures, the Committee recommended the provision of such measures combined with the numerical goal of a minimum of 30 per cent presence of women, as well as timetables to ensure women's increased presence in political parties as well as in all sectors and segments and at all levels of employment. With respect to South Africa, the Committee expressed concern at the acceptability of temporary special measures, notwithstanding the fact that several such measures had been implemented in the political field and that women had been appointed to decision-making posts. It encouraged the Government to continue the use of temporary special measures, including quota systems, in upcoming elections and to assess ways of extending quota systems to other governmental or governmentally appointed bodies to increase women's participation therein, paying particular attention to public bodies dealing with business and economic matters to facilitate women's achievement in those fields. The Committee further urged the Government to ensure that supportive mechanisms are in place for beneficiaries of temporary special measures and to consider carefully the advantages and disadvantages of different election systems for the representation of women. The introduction of temporary special measures was also advocated as a means of addressing the low number of women in the judiciary in South Africa, as well as in Nigeria. Insofar as Panama was concerned, the Committee commended the promulgation of a law in 1997 that reformed the electoral code and provided that at least 30 per cent of the candidates for public election must be women, recommended training programmes for women political leaders and encouraged the large-scale participation of women in democratic activities and decision-making. The Committee pointed out that although some temporary special measures had been introduced in the United Republic of Tanzania to ensure the participation of women in policy-making, the number of women in the Parliament and local authorities was still very small. It also expressed concern that despite progress made in achieving women's equal participation in political and public life in New Zealand, including in Parliament, in the judiciary and on statutory boards, there was little effort to achieve the targets set for gender balance through the use of temporary special measures. Accordingly, the Committee recommended that the Government consider introducing a broad range of measures, including targets and flexible numerical goals. The advantages and disadvantages of the current electoral system, namely, the mixed member proportional representation system, on the percentage of women in Parliament should be assessed and, if necessary, amendments introduced to increase the number of women in Parliament. The Government of Peru was asked to take steps to help increase the access of women to management and, in particular, decision-making posts, and the Committee requested it to report on the results of the steps taken to increase the access of women to Parliament through the requirement of a 25 per cent quota for women in the lists of candidates in the next periodic report under the Convention. In regard to the Republic of Korea, the Committee expressed concern about the under-representation of women in politics and decision-making structures, including the judicial system, emphasizing the importance of fostering a political environment conducive to the promotion of women in all sectors of public and private life. It recommended the provision of more governmental support to increase women's political participation and political education, raise public awareness about women leaders, continue promoting targets and quotas and introduce incentives to encourage a minimum quota of 30 per cent representation of women in political parties and the drafting of policies to increase the participation of women in the judicial system. It also recommended that the Government encourage the private sector to

introduce quotas for women, particularly in non-traditional areas.

30. At its twentieth session, the Committee expressed concern that no efforts had been made in Kyrgyzstan to use temporary special measures to improve the situation of women in various areas and to ensure women's participation in decision-making bodies and women's employment in non-traditional areas, and recommended the introduction of a broad range of temporary special measures, including quotas, to improve the representation of women in politics, at all levels of decision-making and in non-traditional fields of employment. In regard to Greece, the Committee noted the already low level of participation of women in political and public life and the apparent decrease in the percentage of women in elected office. The Committee urged the Government to adopt innovative measures to increase the percentage of women in all public bodies, including in the legislature, the executive and the judiciary, as well as efforts to encourage other entities, such as political parties and the private sector, to increase the number of women at senior and decision-making levels. In regard to Thailand, the Committee was concerned about the under-representation of women in politics and decision-making structures, including the judicial system, and emphasized the importance of fostering a political and social environment conducive to the promotion of women in all sectors of public and private life. It recommending the introduction of affirmative action policies or temporary special measures with goals and timetables to address the situation. In the case of China, the Committee was also concerned that the proportional representation of women in all spheres of public life, and especially at the higher decision-making levels, had increased only minimally since the consideration of China's second report. It urged the Government to adopt temporary special measures to increase the number of women at the higher echelons of Government. Again, in the case of Colombia, the Committee recommended that consideration be given to the possibility of adopting temporary special measures to promote the increased integration of women in decision-making in the country's administrative and political life.

31. During its twenty-first session the Committee expressed concern that, although the Constitution of Nepal guaranteed that political parties should reserve for women at least 5 per cent of places on electoral lists of candidates for elections to the House of Representatives, and that at least three seats should be reserved for women in the National Assembly, the representation of women in the National Legislature remained very low, and the participation of women in government administration was also very low. It recommended that the Government take appropriate steps, including the introduction of temporary special measures to ensure greater participation by women at all levels of decision-making. With respect to Ireland, the Committee noted with concern that women continued to be under-represented in public and political life and that structural and attitudinal reasons, including limiting cultural and social values and difficulties in reconciling family life, paid employment and political tasks, had been identified among the reasons for this low representation. It urged the Government to make full use of temporary special measures to increase women's participation in politics and decision-making, and recommended that the equal status bill (1999) be implemented to provide for temporary special measures to overcome systemic and indirect discrimination against women. The Committee was also concerned at the low level of participation by women in politics and governmental administration in Chile, especially at the decision-making level, and urged the Government to strengthen actions undertaken through comprehensive strategies, including temporary special measures intended to encourage greater participation of women in public life, particularly in political decision-making, and to promote changes in the attitudes and perceptions of both women and men with regard to their respective roles in the home, the family, the workplace and society as a whole. In the United Kingdom, the fact that the number and percentage of women in public and political life, in the judiciary, in positions of higher education and in other areas remained far from equal to those of men also concerned the Committee. It recommended a critical evaluation of the impact and sufficiency of current measures to comply fully with the United Kingdom's obligations under articles 7 and 8 of the Convention, as well as the adoption of specific strategies to encourage women to seek public office and governmental appointments, including mentoring, networking and reviewing qualifications to reflect a broader range of experiences and skills.

32. During its twenty-second session the Committee commended the Government of India for introducing affirmative action measures that reserved 33 per cent of

seats in local government bodies for women and welcomed the proposed bill to reserve 33 per cent of seats in state and national assemblies for women as well as the assurance in the oral presentations that 30 to 40 per cent coverage would be provided for women in programmes that give access to credit. Nevertheless, the Committee expressed concern at the low level of participation of qualified women in the administration and the judiciary, including family courts and *lok adalats*, or conciliation tribunals, and urged the Government to take affirmative action to increase women's participation in those areas and to provide sex-disaggregated data in that regard in its next report. The Committee urged the Government of Jordan to work with political parties, unions and other stakeholders to increase the number of women elected and appointed to political office and decision-making positions and, in particular, encouraged the Government to take temporary special measures, including the introduction of quotas, to remedy the low representation of women in the political sphere. Similarly, with regard to the Democratic Republic of Congo, the Committee recommended the adoption of temporary special measures with specific objectives in relation to the under-representation of women in political life and the judicial system; and, where Burkina Faso was concerned, recommended the implementation of temporary special measures and the use of a quota system in order to achieve a substantial improvement in the number of women in Parliament and to increase their participation in political life and decision-making.

33. At its twenty-third session, the Committee called upon the Government of Iraq to introduce measures in accordance with article 4 (1), and especially to increase the number of women in the political sphere. Concerned at the decrease in women's representation in the Austrian legislature in the recent elections, the Committee recommended temporary special measures and also recommended that the Government consider, inter alia, the use of federal funding for political parties as an incentive for increasing the representation of women in Parliament, as well as the application of quotas, numerical goals and measurable targets aimed at increasing women's political participation.

34. During its twenty-fourth session the Committee recommended that the Government of Uzbekistan utilize temporary special measures to increase the number of women at decision-making levels in Government, governmental bodies, public administration and State-owned enterprises. It also recommended that when introducing quotas for ethnic groups, the Government of Burundi consider introducing measures, as permitted under article 4 (1) of the Convention and outlined in the Committee's general recommendation 23 on women in public life,[12] to increase the participation of women in decision-making at all levels. The Committee also called upon the Egyptian Government to increase the number of women at all levels of decision-making, including in Government and in Parliament, including through the implementation of temporary special measures such as numerical goals and quotas connected to time frames. Similarly, the Committee urged the Government of Jamaica to implement the full range of temporary special measures to increase the number of women in governmental decision-making at all levels, as well as in the public and private sectors, and recommended that the Government sensitize the social partners about the importance of those measures. The Committee commended the Government of Finland for the positive changes in the Finnish Constitution that entered into force on 1 March 2000, which, inter alia, explicitly provide for temporary special measures. It urged the Government to make an effort to facilitate an increase in the number of women in high-ranking posts, and recommended the adoption of proactive measures to encourage more women to apply for such posts and to implement temporary special measures where necessary.

3. Education and training

35. In the area of education and training, the Committee in its concluding comments has recommended the use of gender-specific temporary measures with numerical goals and timetables to avoid the clustering of girls and women in certain traditional disciplines in schools and universities.

36. Thus, during its consideration of Mauritius at its fourteenth session, the Committee expressed its belief that non-academic training, such as embroidery, industrial sewing and the like, conducted as a positive discrimination programme, would only contribute to keeping women in the feminized sector of the economy. At the same session, the Committee regretted that the Colombian general education law of December 1993 had not included affirmative action measures concerning non-sexist education or any provisions

specifically relating to women. It made clear that this required the Presidential Council for Youth, Women and the Family to continue to provide strong support for programmes aimed at overcoming stereotypes concerning men and women in textbooks and other school materials, as well as in the training of teachers and in school curricula.

37. In its consideration of the report of Ethiopia during its fifteenth session the Committee welcomed the affirmative action efforts for women at the university level, and emphasized that measures, including temporary special measures and programmes, must be adopted to give girls and women equal access to high-quality education and training. During its sixteenth session the Committee suggested that the Government of Slovenia make a systematic effort to ensure that women students are encouraged to enter diverse disciplines so as to overcome the clustering of female students in certain disciplines at schools and universities. It suggested that such measures could include special counselling and gender-specific temporary measures with numerical goals and timetables, and recommended that the Government review its gender-neutral educational framework and develop positive measures to counteract hidden stereotypical educational messages and practices.

38. In its consideration of China at its twentieth session, the Committee recommended the adoption of temporary special measures aimed at increasing de facto equality between women and men, within the meaning of article 4 (1), to increase the number of women in non-traditional areas of education, especially in science, technology and engineering, and to promote women from junior and auxiliary positions in teaching and academia to senior positions, and urged the Government to address the perpetuation of gender stereotypes and to allocate adequate resources for gender studies programmes. Similarly, at its twenty-second session it urged the Government of India to take affirmative action, set a time frame and provide adequate resources for primary and secondary education so as to give girls equal access to education and to eradicate adult illiteracy among women. At its twenty-third session, it urged the Republic of Moldova to undertake curriculum reforms and textbook revisions addressing stereotyped images and recommended the inclusion, in the Government's education policy, of measures to encourage girls and women to seek education and training in non-traditional fields, as well as in growth areas of the economy. It also called upon the Government to implement temporary special measures to accelerate women's representation in educational decision-making. At its twenty-fourth session the Committee expressed concern that the Government of Maldives had not yet introduced temporary special measures in accordance with article 4 (1) to improve women's access to higher education, decision-making positions and legislative bodies at the national and local levels. It urged the Government to introduce such measures in a short-term and long-term framework, combining them with public awareness and legal literacy programmes that challenge sexual stereotypes and recognize women's right to equality.

4. Equal participation in employment and economic life

39. Recommendations in concluding comments for implementing article 4 (1) in regard to women's employment and participation in economic life have frequently been coupled with similar recommendations aimed at increasing the proportion of women in political and public life.

40. The Committee's recommendations in regard to participation in economic life have usually been directed specifically to the employment sector, although in its concluding comments on the Dominican Republic adopted at its eighteenth session, the Committee expressed concern that no affirmative action measures were being taken to support women's efforts to break the cycle of poverty.

41. Specific recommendations relating to employment were made during the thirteenth session of the Committee, at which it suggested that the Netherlands pursue and report on more results-oriented policies regarding women's employment, including affirmative action, pay issues and child care. With regard to New Zealand, the Committee suggested that in the field of employment more affirmative action needed to be taken by the Government, in cooperation with the private sector, to help women cope with both family and work responsibilities, as this would help integrate women into full-time employment and avoid limiting their participation in the workforce to part-time or lower-paid jobs. During its fifteenth session, the Committee suggested that measures be taken in Iceland as early as possible, for example, by adopting affirmative action programmes, to ensure that women

are appointed to decision-making positions and assume leadership roles in all fields of employment. At its sixteenth session, the Committee recommended that Slovenia introduce temporary special measures with concrete numerical goals and timetables in order to overcome employment segregation, and noted with concern that Saint Vincent and the Grenadines had not made use of affirmative action measures to accelerate the unequal status of women, particularly in the areas of employment and public service. Insofar as Turkey was concerned, the Committee indicated that temporary special measures should be maintained and strengthened, particularly in the areas of reducing unemployment among women, ensuring that women and men receive equal pay for work of equal value, increasing women's participation in private-sector decision-making, increasing the number of female university professors and researchers, and encouraging men to devote more time to childcare and housework. The Committee noted that such initiatives should include quantitative targets, time limits for their achievement, specific measures and sufficient budgetary resources. During its seventeenth session, the Committee recommended that the Government of Armenia take temporary special measures to create employment opportunities for women, including special credit and loan programmes for women entrepreneurs. Similar suggestions were made at the Committee's nineteenth session, at which it recommended that the Government of Slovakia use temporary special measures to break through the sex segregation of the labour market, and urged the South African Government to focus, as a matter of priority, on creating income-generating activities for women. In that regard, the Committee indicated that existing efforts, including the use of quotas in job-creation schemes such as the community-based public works programme, should be expanded into areas where the number of unemployed women workers was particularly high.

42. During its twentieth session, the Committee recommended that Algeria implement article 4 (1) through the use of temporary incentives with quantitative targets aimed at increasing women's employment in both the public and private sectors. At the same session it commended the Government of Liechtenstein's initiative of subsidizing the employment of women in private enterprises. However, noting the inadequacy of temporary special measures to accelerate de facto equality between women and men and affirmative action to address the situation of women in all areas, it urged the Government to implement temporary special measures to accelerate the advancement of women, pointing out that such measures had been successful in addressing structural discrimination against women in politics and employment and in accelerating de facto equality for them. The use of affirmative action measures by Spain to overcome obstacles to women's de facto equality, especially in the field of employment, was welcomed by the Committee at its twenty-first session, while at its twenty-third and twenty-fourth sessions it called upon Cuba and Uzbekistan respectively to implement temporary special measures targeted at women to reduce their unemployment level and disparities in their access to some sectors of the labour market.

5. Temporary special measures to advance the situation of particular groups of women

43. A few concluding comments also advocate the use of temporary special measures where particular groups of women are concerned. For example, in the concluding comments adopted with regard to Turkey at its sixteenth session, the Committee regretted that no temporary special measures had been put in place to redress the situation of Kurdish women, who suffered double discrimination. The Committee's concluding comments on India, adopted at its twenty-second session, similarly urged the Government to introduce affirmative action programmes in such areas as education, employment and health so as to provide life chances for Dalit women and girls and to create an environment conducive to their progress. The Committee also called upon the Government to set a time frame for those interventions and to provide information in the next report on progress made in that area.

6. Evaluation of the impact of and programmes to support temporary special measures

44. In addition to recommending temporary special measures in various contexts, the Committee has emphasized the evaluation of their impact. For example, in the concluding comments on Namibia, adopted at the seventeenth session, the Committee recommended that the Government ensure the effective monitoring of the implementation of all affirmative action policies and programmes, while at its eighteenth session the Committee invited the Government of the

Dominican Republic to conduct regular assessments of the impact of the 25 per cent quota regulation contained in the electoral law to ensure the full implementation of the law and the achievement of higher percentages of women in decision-making.

45. Programmes to support temporary special measures and their beneficiaries have also been recommended, with the Committee often encouraging training programmes for women political leaders to enhance the participation of women in decision-making and to raise awareness about women leaders. Again, in the concluding comments relating to Namibia, the Committee stressed that the implementation of affirmative action measures should have time frames and should include educational and other programmes to sustain the objectives and achievements of existing affirmative action programmes.

7. Misunderstanding of article 4 (1)

46. A number of concluding comments have recognized the difficulties that States parties have experienced with the concept of temporary special measures in accordance with article 4 (1). In regard to Namibia, at its seventeenth session the Committee expressed concern that the issue of maternity leave was dealt with under article 4, as it was of the view that that was not a measure of affirmative action. In its concluding comments on Bulgaria, adopted at its eighteenth session, the Committee expressed concern that there was a lack of understanding of article 4 (1), and explained that temporary special measures or affirmative action meant the establishment of programmes that advantage women more than men and that required the undermining of formal equality for a certain period of time in order to achieve de facto equality in the long term. It indicated that the reference by the representative of the Government of Bulgaria to an earlier retirement age for women than for men was not a measure of affirmative action. Similarly, in its concluding comments on Slovakia, adopted at its nineteenth session, the Committee expressed concern that the definitions of affirmative action and temporary special measures as outlined in the Convention had been misunderstood and misinterpreted by the Government to be protective measures. It pointed out that while legislation and institutional structures were essential to the advancement of women's status, they were not sufficient to address the ongoing preference for men in employment and politics, and that while it recognized that the establishment of quotas and other temporary special measures to promote women were often controversial, they had been shown to address effectively structural discrimination against women in politics and employment and to accelerate the de facto equality of women. Similar concerns were expressed by the Committee in its concluding comments adopted on Lithuania and Jamaica at its twenty-third and twenty-fourth sessions respectively, while in its concluding comments on Kazakhstan adopted at its twenty-fourth session it urged the Government to take steps to create an understanding of temporary special measures and to implement such measures in order to increase the number of women in decision-making at all levels and in all areas. In its concluding comments on Peru, adopted at its nineteenth session, the Committee expressed concern that temporary special measures were being interpreted as protective measures, rather than as affirmative action, although it did note the existence of the requirement that 25 per cent of the candidates on the lists of candidates for election to Parliament must be women, which was defined as an affirmative action measure.

47. Very few concluding comments address the fact that measures required by article 4 (1) may be controversial. However, in its concluding comments on Greece, adopted at its twentieth session, the Committee noted with concern that, following a number of recent court cases, the legality of affirmative action and temporary special measures were unclear, and recommended that the compatibility of legislative provisions with article 4 (1) be clarified by the Government to ensure its implementation. Again, in its concluding comments on Colombia, adopted at the same session, the Committee noted that it had not been possible to incorporate in legislation temporary special measures aimed at accelerating de facto equality between women and men so as to ensure women's political participation because this would be perceived as discriminatory within the terms of the Constitution, and there was clear resistance on the part of legislative, executive and judicial bodies to such measures.

Notes

[1] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 38* (A/55/38), part two, chap I, decision 23/III.

[2] *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations

publication, Sales No. E.96.IV.13), chap. I, resolution 1, annex II, paras. 165 (d) and (o), 178 (f), 190 (a), 192 (a) and 299.

[3] *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18* (A/48/18), para.114.

[4] Ibid., *Fifty-fifth Session, Supplement No. 18* (A/55/18), annex V.C.

[5] Ibid., *Forty-fifth Session, Supplement No. 40* (A/45/40), vol. I, annex VI.A.

[6] Ibid., *Fifty-fifth Session, Supplement No. 40* (A/55/40), vol. I, annex VI.B.

[7] *Official Records of the Economic and Social Council, Supplement No. 2 and corrigendum* (E/1995/22 and Corr.1), annex IV.

[8] Ibid. (E/2000/22 and Corr.1), annex VI.

[9] E/CN.4/Sub.2/2000/11 and Corr.1.

[10] See Patrick A. Taran, *"Approaches to Promote Equality: A Compendium of Measures"*, International Labour Organization, September 2000; Jane Hodges-Aeberhard, "Affirmative Action in Employment: Recent Court Approaches to a Difficult Concept", in *International Labour Review*, vol. 138, No. 3 (1999); and *Women, Gender and Work*, edited by Martha Fetherolf Loufti, International Labour Organization, 2001.

[11] *Official Records of the General Assembly, Forty-third Session, Supplement No. 38* (A/43/38).

[12] Ibid., *Fifty-second Session, Supplement No. 38* (A/52/38/Rev.1), part two, chap. I, sect. A.

Annex

Documents containing concluding comments of the Committee

Thirteenth session
17 January to 4 February 1994
(A/49/38)

Guyana	Initial report
Libyan Arab Jamahiriya	Initial report
Madagascar	Initial report
Netherlands	Initial report
Guatemala	Combined initial and second periodic reports
Zambia	Combined initial and second periodic reports
Australia	Second periodic report
New Zealand	Second periodic report
Senegal	Second periodic report
Barbados	Combined second and third periodic reports
Colombia	Combined second and third periodic reports
Ecuador	Second periodic report
	Third periodic report
Japan	Second periodic report
	Third periodic report
Bosnia and Herzegovina	Report submitted on an exceptional basis
Federal Republic of Yugoslavia (Serbia and Montenegro)	Report submitted on an exceptional basis

Fourteenth session
16 January to 3 February 1995
(A/50/38)

Bolivia	Initial report
Chile	Initial report
Mauritius	Initial report
	Second periodic report
Tunisia	Combined initial and second periodic reports
Uganda	Initial report
	Second periodic report
Finland	Second periodic report
Peru	Second periodic report
Norway	Third periodic report
	Fourth periodic report
Russian Federation	Third periodic report
	Fourth periodic report
Croatia	Report submitted on an exceptional basis

Fifteenth session
15 January to 2 February 1996
(A/51/38)

Cyprus	Initial report
	Second periodic report
Iceland	Combined initial and second periodic reports
Paraguay	Initial report
	Second periodic report
Ethiopia	Initial report
	Second periodic report
	Third periodic report
Belgium	Second periodic report
Cuba	Combined second and third periodic reports
Hungary	Third periodic report
Ukraine	Third periodic report
Rwanda	Report submitted on an exceptional basis

Sixteenth session
13 to 31 January 1997
(A/52/38/Rev.1, part one)

Morocco	Initial report
Slovenia	Initial report
Saint Vincent and the Grenadines	Combined initial, second and third periodic reports
Turkey	Combined second and third periodic reports
Venezuela	Third periodic report
Denmark	Third periodic report
Canada	Third periodic report
	Fourth periodic report
Philippines	Third periodic report
	Fourth periodic report
Zaire	Report submitted on an exceptional basis

Seventeenth session
7 to 25 July 1997
(A/52/38/Rev.1, part two)

Armenia	Initial report
Namibia	Initial report
Israel	Combined initial and second periodic reports
Luxembourg	Initial report
	Second periodic report
Antigua and Barbuda	Combined initial, second and third periodic reports
Argentina	Second periodic report
	Third periodic report
Italy	Second periodic report
	Third periodic report
Australia	Third periodic report
Bangladesh	Combined third and fourth periodic reports

Eighteenth session
19 January to 6 February 1998
(A/53/38/Rev.1, part one)

Azerbaijan	Initial report
Croatia	Initial report
Zimbabwe	Initial report
Czech Republic	Initial report
Bulgaria	Combined second and third periodic reports
Indonesia	Combined second and third periodic reports
Dominican Republic	Combined second and third periodic reports
	Fourth periodic report
Mexico	Combined third and fourth periodic reports

Nineteenth session
22 June to 10 July 1998
(A/53/38/Rev.1, part two)

Slovakia	Initial report
South Africa	Initial report
Nigeria	Combined second and third periodic reports
Panama	Combined second and third periodic reports
United Republic of Tanzania	Combined second and third periodic reports
New Zealand	Combined third and fourth periodic reports
Peru	Combined third and fourth periodic reports
Republic of Korea	Third periodic report
	Fourth periodic report

Twentieth session
19 January to 5 February 1999
(A/54/38/Rev.1, part one)

Algeria	Initial report
Kyrgyzstan	Initial report
Liechtenstein	Initial report
Greece	Combined second and third periodic reports
Thailand	Combined second and third periodic reports
China	Combined third and fourth periodic reports
Colombia	Fourth periodic report

Twenty-first session
7 to 25 June 1999
(A/54/38/Rev.1, part two)

Belize	Combined initial and second periodic reports
Georgia	Initial report
Nepal	Initial report
Ireland	Combined second and third periodic reports
Chile	Second periodic report
	Third periodic report
Spain	Third periodic report
	Fourth periodic report
United Kingdom of Great Britain and Northern Ireland	Third periodic report
	Fourth periodic report

Twenty-second session
10 to 28 January 2000
(A/55/38, part one)

India	Initial report
Jordan	Initial report
	Second periodic report
Myanmar	Initial report
Democratic Republic of the Congo	Initial report
	Second periodic report
	Third periodic report
Burkina Faso	Combined second and third periodic reports
Germany	Combined second and third periodic reports
	Fourth periodic report
Belarus	Third periodic report
Luxembourg	Third periodic report

Twenty-third session
12 to 30 June 2000
(A/55/38, part two)

Cameroon	Initial report
Republic of Moldova	Initial report
Lithuania	Initial report
	Second periodic report
Iraq	Combined second and third periodic reports
Austria	Combined third and fourth periodic reports
	Fifth periodic report
Cuba	Fourth periodic report
Romania	Combined fourth and fifth periodic reports

Twenty-fourth session
15 January to 2 February 2001
(report to be issued as A/56/38)

Burundi	Initial report
Kazakhstan	Initial report
Maldives	Initial report
Uzbekistan	Initial report
Jamaica	Combined second, third and fourth periodic reports
Egypt	Third periodic report
	Combined fourth and fifth periodic reports
Finland	Third periodic report and fourth periodic report
Mongolia	Combined third and fourth periodic reports